

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLEOTHA BROWN,

Defendant-Appellant.

UNPUBLISHED

September 18, 1998

No. 187065

Saginaw Circuit Court

LC No. 95-010190 FC

Before: Hood, P.J., and Griffin and O'Connell, P.J.

PER CURIAM.

Defendant was charged as an adult with five counts of armed robbery, MCL 750.529; MSA 28.797, and one count each of conspiracy, MCL 750.157a; MSA 28.354(1), possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and carrying a dangerous weapon in a motor vehicle, MCL 750.227; MSA 28.424. Defendant pleaded guilty to two counts of armed robbery and to felony-firearm pursuant to a plea agreement. He was sentenced as an adult and within the terms of the plea agreement to concurrent terms of ten to twenty-five years' imprisonment for the robbery convictions and to a consecutive term of two years' imprisonment for the felony-firearm conviction. Defendant appeals as of right. We affirm.

After a careful review of the record, we conclude that the trial court's findings of fact were supported by the testimony of the witnesses and the contents of the various reports submitted to the court for its consideration, and, therefore, were not clearly erroneous, with the exception of a few factual findings of a minor nature that were of insufficient importance to the court's decision to warrant the upsetting of defendant's sentences. *People v Cheeks*, 216 Mich App 470, 474-475, 477-478; 549 NW2d 584 (1996).

We also conclude that the trial court did not abuse its discretion when it resolved the conflict between the best interests of defendant and the best interests of the public in favor of public safety because the prosecution sustained its burden of proof. MCR 6.931(E)(2); *Cheeks, supra* at 478-479. The record supports the conclusion that, on balance, the best interests of defendant and the public would be better served by sentencing defendant as an adult, particularly in light of defendant's extensive

juvenile criminal history, the escalation in the seriousness of the crimes defendant is willing to commit, the serious nature of the offenses for which he was convicted, defendant's marked behavioral difficulties and the inability of the juvenile justice system to rehabilitate defendant while he was under its jurisdiction. MCL 769.1(3); MSA 28.1072(3); *Cheeks, supra*.

Defendant pleaded guilty with knowledge of the sentences he was to receive. Accordingly, defendant may not advance an appellate challenge to the proportionality of his sentences. *People v Cobbs*, 443 Mich 276, 285 n 11; 505 NW2d 208 (1993). Because defendant may not challenge the proportionality of his sentences, he cannot advance a challenge to the scoring of the sentencing information report that states a cognizable claim for relief. *People v Mitchell*, 454 Mich 145, 176-177; 560 NW2d 600 (1997).

Affirmed.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ Peter D. O'Connell